

**PURCHASING AND CONTRACTING: PROCUREMENT
STAFF CODE OF CONDUCT**

[NOTE: This sample policy is intended to assist school units in complying with the requirements of the Uniform Grant Guidance (UGG), a set of rules that requires local school administrative units who receive federal awards to have in place specific written procurement and conflict of interest policies and procedures which would apply to any solicitation or contract for goods or services that uses federal funds.

Some of the provisions are specifically required by the UGG. Others are not required, but are recommended. The status of each provision is indicated in brackets to facilitate Board discussion. This information should be deleted before the policy is adopted. Other bolded internal “notes” should be deleted as well.]

Conflict of Interest

[The following provision is recommended but not required.]

All employees of [**School Unit Name**] shall perform their duties in a manner free from conflict of interest to ensure that the school unit’s business transactions are made in compliance with applicable laws and regulations and in a manner that maintains public confidence in the schools.

[The following provision is required.]

No employee, officer or agent of [**School Unit Name**] shall participate in the selection, award or administration of a contract supported by a federal award if he/she has a real or apparent conflict of interest.

[The following provision is required.]

A conflict of interest would arise when the employee or any member of his/her immediate family, his/her partner, or an organization that employs or is about to employ any of these parties has a financial or other interest in the firm selected for the award. For the purpose of this policy, “immediate family” is defined as spouse, brother, sister, parent, son or daughter.

[The following provision is recommended but not required.]

For the purpose of this policy, “immediate family” is defined as spouse, brother, sister, parent, son or daughter.

Conflict of Interest Disclosure

[The following provision is recommended but not required.]

All employees with real or apparent conflicts of interest as defined above must disclose the conflict of interest to the Superintendent who will investigate the circumstances of the proposed transaction. The Superintendent will exercise due diligence in investigating the circumstances of the transaction and, if necessary, will make reasonable efforts to find alternatives to the proposed transaction or arrangement that would not give rise to a conflict of interest. If the Superintendent determines that the proposed transaction is in the best interest of **[School Unit Name]** and is fair and reasonable, he/she may proceed with the transaction. In the event that the Superintendent may have a conflict of interest, an ad hoc subcommittee of the Board will investigate and make a determination regarding the transaction.

Staff Gifts and Solicitations

[The following provision is required.]

Employees, officers and agents of [School Unit Name] may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts.

[The following provision is recommended but not required.]

Employees, officers and agents of the school unit may accept unsolicited items of nominal value such as those that are generally distributed by a company or organization through its public relations program.

Violations

[The policy must provide for disciplinary actions to be applied for violations of the policy by officers, employees or agents of the school unit. The following language is recommended.]

Employees of **[School Unit Name]** who violate this code of conduct may be subject to discipline, up to and including termination of employment and, if appropriate, referral to law enforcement.

Conflict Resolution/Protests and Claims

[The previous version of this sample policy included a section titled “Dispute Resolution.”

The Uniform Grant Guidance refers to “protests and claims.”

Boards should refer to the article in the August 2017 issue of Policy Development News, titled *Purchasing and Contracting Using Federal Funds: Complying with the Uniform Grant Guidance*, to review their options for a process to address protests and claims that may arise in the procurement of property, goods or services through the use of federal awards/grants.]

Legal Reference: 34 CFR Parts 74 and 80 (Education Department General Administrative Regulations (‘EDGAR’)) (for federal awards made prior to 12/26/2014)
2 CFR §200.318 (Uniform Administrative Requirements – General Procurement Standards) (for federal awards made on or after 12/26/2014)

Cross Reference: DJ - Bidding/Purchasing Requirements
DJ-R – Federal Procurement Manual

Adopted: _____

PLEASE NOTE MSMA sample policies and other resource materials do not necessarily reflect official Association policy. They are not intended for verbatim replication. Sample policies should be used as a starting point for a board’s policy development on specific topics. Rarely does one board’s policy serve exactly to address the concerns and needs of all other school units. MSMA recommends a careful analysis of the need and purpose of any policy and a thorough consideration of the application and suitability to the individual school system.

MSMA sample policies and other resource materials may not be considered as legal advice and are not intended as a substitute for the advice of a board’s own legal counsel.